

10. 05. 2022

BP
Sl. 4
Court No. 17

WPA 1833 of 2022

Shyamsundar Roy
Vs.
The State of West Bengal & Ors.

Mr. Ujjal Ray
Mr. Arpa Chakraborty
..for the petitioner.

Mr. Supriyo Chattopadhyay
Ms. Iti Dutta
..for the State.

Mr. Avik Ghatak
Ms. Afreen Begum
..for the School.

Despite direction, the Headmaster of the school has not filed any affidavit in support of his statement. In the whole of Bongaon Sub-Division, it is the only school which has the subject Statistics. This order was passed on 19th April, 2022.

The reason for non submission of this affidavit on behalf of the school due to some facts regarding the said transfer and for not having time to affirm the affidavit. Such reasons shown before this court for non submission of affidavit in opposition on behalf of the school is not accepted and this court holds that the school has nothing to say in this regard and any order that may be passed now for which the school may

suffer will be for the irresponsibility of the Headmaster.

This is an application of a single teacher for transfer. The petitioner relies upon the amendment of 2015 Rules for General Transfer. Such amendment came into force on 8th September, 2021. The petitioner relies upon 6 (c) which has substituted Rule 6(2)(c) is as follows:-

‘6(2) – Upon submission of application, the authority of SMC shall –

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.

(c) consider the number(s) of subject teacher(s) and roll strength. If resultant vacancy of school in particular subject become zero, or not commensurate with roll strength, the authority of SMC shall not forward the application.’

I fail to understand how this provision helps the petitioner. The petitioner has relied upon one unreported judgement delivered by this court in WPA 14436 of 2021 on 20.12.2021. In the said judgment the consideration for transfer of the teacher was completely different from the provision of Rule 6(2)(c).

Considering the subject and the single teacher in the matter and considering the submission of the petitioner that for the last three years there is no student, I direct the concerned District Inspector of Schools to forward the application of the petitioner to the School Service Commission. The question of single teacher does not arise because the expression ‘teacher’

has two connotations; one is he is a teacher who is holding a post of teacher legally and the other is a person who is teaching his/her student. As there is no student for the last three years in the subject Statistics, the petitioner is not imparting any education to any student for no fault on his own and from the view point of teaching student the person cannot be considered as a single teacher though there is a post which has been occupied by the petitioner legally. Therefore, the question of single teacher does not arise here and the teacher must be transferred from the present school to another as has been selected through Utsoshree portal.

As the Headmaster has failed to file his affidavit in opposition for reasons including not having time to affirm the same, the allegations made against the school are deemed to have been admitted.

I direct the concerned District Inspector of Schools to take appropriate steps for forwarding the application of the petitioner to the School Service Commission within a period of seven days from the date of communication of this order. The School Service Commission will take steps for transfer of the petitioner within a period of seven days after receiving the forwarded application from the end of the concerned DI so that if there will be any place for students of

Statistics are suffering for less number of teachers such students can get the benefit of teaching by the teachers who are qualified for imparting such teaching.

With this observation and direction, this writ application is allowed.

(Abhijit Gangopadhyay, J.)

